

ORIGINAL

FILED
DISTRICT COURT OF GUAM

MAR 14 2005 *mbc*

MARY L.M. MORAN
CLERK OF COURT

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Guerrero.ple

LEONARDO M. RAPADAS
United States Attorney
KARON V. JOHNSON
Assistant U.S. Attorney
Suite 500, Sirena Plaza
108 Hernan Cortez Avenue
Agana, Guam 96910
Telephone: (671) 472-7332/7283
Telecopier: (671) 472-7334

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MARVA GUERRERO,)
)
Defendant.)
_____)

CRIMINAL CASE NO. 05-00013

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, MARVA GUERRERO, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to an Indictment charging her with Structuring Transactions to Evade a Reporting Requirement, in violation of Title 18, United States Code, § 5324(a)(1) & 5322(a).

2(a) The defendant, MARVA GUERRERO, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of currency transaction violations and related unlawful activities. Cooperation shall include providing all information known to defendant regarding any criminal activity, including but not limited to the offense to which she is pleading guilty.

1 2(b) The United States will make this cooperation known to the Court prior to the
2 defendant's sentencing. The defendant further understands that she remains liable and subject to
3 prosecution for any criminal schemes of which she does not fully advise the United States, or for
4 any material omissions in this regard.

5 2(c) This agreement is not contingent in any way upon the outcome of any investigation,
6 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in
7 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the
8 success of any prosecution.

9 2(d) Except as otherwise herein provided, the United States agrees not to prosecute
10 defendant for any other non-violent offenses which were committed in the District of Guam or
11 the Northern Mariana Islands (CNMI) which defendant reveals to Federal authorities during her
12 cooperation with the United States. This agreement is limited to crimes committed by defendant
13 in the districts of Guam or the CNMI.

14 3. The defendant, MARVA GUERRERO, understands that the maximum sentence for
15 Failure to File a Currency Transaction Report is a term of five (5) years imprisonment, a
16 \$250,000 fine, and a \$100 special assessment fee, which must be paid at the time of sentencing.
17 Any sentence imposed may include a term of supervised release of not more than three (3) years
18 in addition to such terms of imprisonment. Defendant understands that if she violates a condition
19 of supervised release at any time prior to the expiration of such term, the court may revoke the
20 term of supervised release and sentence her up to an additional two (2) years of incarceration
21 pursuant to 18 U.S.C. § 3583(e)(3).

22 3(b) If defendant cooperates as set forth in Paragraph 2, the government will recommend
23 that defendant receive the minimum term of incarceration recommended by the Sentencing
24 Guidelines.

25 3(c) The government will recommend a fine within the Sentencing Guidelines range. If
26 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a
27 full disclosure of her financial status to the United States Attorney's Office by completing a
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1 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.

2 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

3 4. The defendant understands that to establish a violation of Structuring Transactions to
4 Evade a Reporting Requirement, as charged pursuant to 31 U.S.C. § 5324(a)(1), the government
5 must prove each of the following elements beyond a reasonable doubt:

6 First: the defendant involved a domestic financial institution in a transaction
7 for the transfer of United States currency;

8 Second: a report was required to be filed concerning said transaction
9 because it involved more than \$10,000 in United States currency, as
prescribed by regulations promulgated by the Secretary of the Treasury
pursuant to 31 C.F.R. §§ 103.11 and 103.22;

10 Third: the defendant caused said domestic financial institution to fail to file
11 such a report; and

12 Fourth: the defendant acted with the intent and purpose of evading the
reporting requirements of Title 31, United States Code, § 5313(a).

13 5. The defendant also understands that the facts she stipulates to herein will be used,
14 pursuant to 1B1.2, in calculating the applicable Sentencing Guidelines level. The Government
15 and the defendant stipulate to the following facts for purposes of the Sentencing Guidelines:

16 (a) The defendant was born in 1971, and is a citizen of the United States.

17 (b) If the defendant cooperates with the United States by providing information
18 concerning the unlawful activities of others, the government agrees that any self-incriminating
19 information so provided will not be used against defendant in assessing her punishment, and
20 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used
21 in determining the applicable Guidelines range.

22 (c) My Lai Wong asked the defendant if she wanted to make some money, and the
23 defendant agreed. Wong gave defendant \$70,000 in United States currency, and requested that
24 she cause seven cashier's checks to be purchased with this money. Wong gave defendant a list
25 with seven names on it. Defendant went to a domestic financial institution, First Hawaiian Bank,
26 and attempted to purchase the seven checks, but the Bank would not engage in the transaction
27 unless she was an account holder. Accordingly, defendant opened a savings account at First
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1 Hawaiian Bank with this \$70,000, then withdrew 69,300, which she used to purchase cashier's
2 checks, each in the amount of \$9,880. The Bank charged a \$20 fee per check, leaving defendant
3 with \$700, which was her payment for performing this service for Wong. Title 31, United States
4 Code, § 5313(a) and 31 C.F.R. §§ 103.11 and 103.22, required that a cash transaction report be
5 filed for every cashier's check which was purchased with United States currency in the amount of
6 over \$10,000. By causing the \$70,000 cash to be broken down into seven transactions, each
7 under \$10,000, a cash transaction report was not required to be filed concerning any of these
8 checks. The defendant caused these transfers with the intent and purpose of evading the
9 reporting requirements as set forth above.

10 (d) The defendant understands that notwithstanding any agreement of the parties, the
11 United States Probation Office will make an independent application of the Sentencing
12 Guidelines. The defendant acknowledges that should there be discrepancies in the final
13 sentencing guidelines range projected by her counsel or any other person, such discrepancies are
14 not a basis to withdraw her guilty plea.

15 6. The defendant understands that her sentencing may be continued, at the sole
16 discretion of the United States, until after the indictment and trial of any associates involved.
17 This will also enable the Court to see the full degree of the defendant's cooperation. The
18 defendant therefore waives any right she may have to any speedy sentencing and hereby agrees to
19 any continuance of her sentencing date as it may become necessary.

20 7. In exchange for the government's concessions in this plea agreement, the defendant
21 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal
22 the sentence imposed in this case. The defendant agrees that the government has bargained for a
23 criminal conviction arising from her conduct. If at any time defendant's guilty plea or conviction
24 is rejected, withdrawn, vacated or reversed, for whatever reason, or if any change of law renders
25 the conduct for which she was convicted to be non-criminal, defendant agrees that she will enter
26 a guilty plea to another charge encompassing the same or similar conduct. In such event,
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1 defendant waives any objections, motions or defenses based upon the Statute of Limitations,
2 Speedy Trial Act, or constitutional restrictions as to the time of bringing such charges.

3 8. The defendant acknowledges that she has been advised of her rights as set forth below
4 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has
5 had sufficient opportunity to reflect upon, and understands the following:

6 (a) The nature and elements of the charge and the maximum possible penalty provided
7 by law;

8 (b) Her right to be represented by an attorney;

9 (c) Her right to plead not guilty and the right to be tried by a jury and at that trial, the
10 right to be represented by counsel, the right to confront and cross-examine witnesses against her,
11 and the right not to be compelled to incriminate herself, that is, the right not to testify;

12 (d) That if she pleads guilty, there will not be a further trial of any kind on the charges to
13 which such plea is entered so that by entering into this plea agreement, she waives, that is, gives
14 up, the right to a trial;

15 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure
16 11(c)(1)(B), the defendant understands that she may not withdraw her guilty plea even if the
17 court does not accept the sentencing recommendations of the government or her counsel;

18 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask her questions
19 about the offenses to which she has pled, under oath, and that if she answers these questions
20 under oath, on the record, her answers may later be used against her in prosecution for perjury or
21 false statement if an answer is untrue;

22 (g) That she agrees that the plea agreement is voluntary and not a result of any force,
23 threats or promises apart from this plea agreement;

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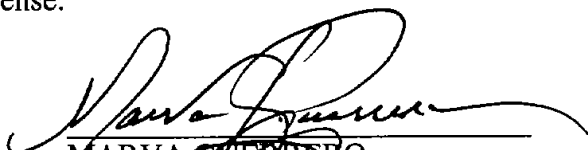
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1 (h) The defendant is satisfied with the representation of her lawyer and feels that her
2 lawyer has done everything possible for her defense.

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4 DATED: 03/10/05



MARVA GUERRERO
Defendant

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6 DATED: 3/10/05


JOHN T. GORMAN
Attorney for Defendant

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8
9 LEONARDO M. RAPADAS
United States Attorney
Districts of Guam and CNMI

10
11 DATED: 3/10/05

12 By: 
KARON V. JOHNSON
Assistant U.S. Attorney

13
14 DATED: 3-14-05


RUSSELL C. STODDARD
First Assistant U.S. Attorney